



LSESU Law Society
Bar and Chambers
Handbook

2022/23

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A Message From the Committee

Welcome!

Bar and Chambers is an autonomous division of the London School of Economics Student Union (LSESU) Law Society, we organise and run moots, as well as create opportunities and provide support for students aspiring to practice at the Bar.

Over the summer the new Bar and Chambers committee has worked hard to prepare an interesting line up of moots, covering topics and difficulties, as well as create exciting opportunities to help you explore and pursue a career at the Bar.

Whether you're new to LSE or new to mooting we look forward to working with you! Mooting is a great opportunity to develop legal reasoning and debate skills in a unique environment, whilst it's particularly useful for those that want to go to the Bar, there's no one who can't benefit from engaging with mooting!

This handbook lays out everything from our policies on dress for moots, selecting mooters, and a guide to mooting overall. The guide to mooting is from our 2019/20 committee, it has some undeniably good advice, however, take the structured approach it provides with a pinch of salt, we would advise developing your own style and methods, the best way to do that is to get stuck in! Nothing in the guide to mooting is a rule, any applicable rules will be sent to you when you are selected for a moot.

Please keep an eye on your emails for the weekly Law Society Newsletter where we'll put any upcoming opportunities or events, additionally you can follow us on Instagram (@lsebarchambers) where we also post everything we've got going on!

If you have any questions or need any help feel free to reach out to our committee, we're all here to help!

We look forward to seeing you at our events this year!

Sincerely,

Fee Robinson, **President**
Khadijah Rajah, **Mistress of the Moots**
Sebastian Ching, **Master of the moots**
Dana Satoc, **Careers Coordinator**

A Note on LSESU Law Society Membership

Whilst all LSE Students, law or otherwise, are more than welcome to partake in our moots and career events we do require that you have membership of the LSESU Law Society. This is easy to purchase via the SU website.

Mooting Policy

Types of Moot

To sign up to any moot run by Bar and Chambers please visit our website! www.lsebarchambers.com

Practice Non-Competitive (PNC)

Practice non-competitive moots (PNC) are not scored and are run internally between LSE students. These are organised throughout the year and act as a great opportunity to enhance your skills or try out mooting for the first time! Whether you're a first year or third year, new to mooting or expert, feel free to sign up!

This year, for the first time, we will be advising on the topics of PNCs before you sign up, there are only two topics of PNC moots; criminal and contract. We will run at least 4 PNCs throughout the year, with at least 2 in Michaelmas and at least 2 in Lent.

The difficulty of these moots will always be '**beginner**', indicating no prior experience required.

Internal Competitive

Internal competitive moots are scored moots between LSE students. They are often sponsored by law firms or chambers, with cash prizes or mini-pupillages available as prizes. They run on a variety of subject areas, normally chosen in conjunction with the sponsor. They may have just one round where the highest scoring mooter/team wins, or may run in a tournament format.

Entrance into these moots may be done on a first come, first served basis, or on the basis of application. This depends on their level of difficulty.

External Competitive/Varsity

External competitive moots, or varsity moots, are scored moots between LSE students and students from other universities. They may have just one round where the highest scoring mooter/team wins, or may run in a tournament format. These moots may be bilateral (LSE versus one other university) or multilateral (LSE versus multiple other universities).

These moots may have cash as prizes, pupillage/mini-pupillage offers/interviews as prizes, and, given their prestige, look excellent on CVs. These moots will have an application process and will always be of *at least* intermediate difficulty.

Department-Organised

Some moots are organised by the department. These are often large, international moots that require LSE to send just one team. They are often more complex moots and will have a member of the faculty act as a coach. Whilst Bar and Chambers may well assist in supporting these moots they are neither run by, nor are the mooters selected by, Bar and Chambers.

Policy on Selecting Mooters

Moots could be:

- **Beginner**, indicating no prior experience required
- **Intermediate**, indicating at least some beginner experience would be required.
- **Expert**, indicating at least some intermediate experience would be required.

Places in **beginner** moots are done on a first come, first served basis. We will keep a waiting list of anyone who we cannot accommodate in the first instance and, if anyone drops out, places will be awarded to those on the waiting list.

Entrance into **intermediate** and **expert** moots will be done on the basis of application, with the Bar and Chambers committee selecting successful candidates. Specifically, the President, Master of the Moots, Mistress of the Moots, and External Mooting Officer will select mooters.

Any committee members who have applied for the moot will withdraw from selecting mooters. Unsuccessful applicants will receive brief feedback on why they did not get selected.

When considering applications for **intermediate** moots the committee will consider:

- Does the candidate have at least some beginner experience? (required)
- Does this candidate have some intermediate experience? (desirable)
- At this level of mooting the committee will attempt to balance the interests of giving mooters experience and selecting mooters who are likely to win.

When considering applications for **expert** moots the committee will consider:

- Does the candidate have at least some beginner and intermediate experience? (required)
- Does this candidate have some expert moot experience? (desirable)
- The emphasis at this level of mooting is selecting mooters who are likely to win (we may look at your prior scores), but giving mooters experience is also a consideration.

Previous experience does **not** guarantee you a slot in any given moot, but does make your application significantly more competitive.

LSE Moot Scoring Policy

The LSE Moot Scoring guidelines are used in all internal competitions, external competition scoring guidelines will be decided by the moot organisers and will be made available to all entrants. They are unlikely to vastly differ from the LSE guidelines.

Each mooter's skeleton argument will be rated out of five on each of the following criteria:

- Understanding of the law
- Coherence of arguments (this criteria is out of 10)
- Clarity of expression
- Presentation

Up to 10 points can be deducted for failure to comply with requirements set out for the skeleton argument (e.g going over the allotted space/word count).

Each mooter's oral argument will be rated out of five on each of the following criteria:

- Content of oral argument
- Response to questioning
- Structure and strategy
- Style and presentation (including staying to time)
- Courtroom etiquette

Judges should give oral feedback on why they gave the scores they gave and will be expected to explain deductions.

The two mooters on each team's scores are combined to give an overall team score. The team with the highest score wins.

Skeleton Argument Score Sheet						
Room/Time	Understanding of the law (/5)	Coherence of arguments (/10)	Clarity of expression (/5)	Presentation (/5)	Deductions (max. 10)	Total (/25)
Senior Appellant						
Junior Appellant						
					Team Score	/50

Senior Respondent						
Junior Respondent						
					Team Score	/50

Oral Argument Score Sheet						
	Content of oral argument (/5)	Response to questioning (/5)	Structure and strategy (/5)	Style and presentation (/5)	Courtroom etiquette (/5)	Total (/25)
Senior Appellant						
Junior Appellant						
					Team Score	/50

Senior Respondent						
Junior Respondent						
					Team Score	/50

Policy on Withdrawing From Moots/ Being Late/ Missing Bundle Swap Deadlines

Withdrawal/ Failure to Show

You are welcome to withdraw from any moot for which you are entered. You are expected to let us and your teammate know. Please contact whichever committee member emailed you the moot problem to withdraw.

Withdrawals (with the exception of exceptional circumstances) made less than 48 hours before the bundle swap deadline will result in a warning, this will be considered when you apply for future moots. Three warnings may result in you being potentially barred from future moots. Warnings reset each academic year.

Failure to show at a moot without having contacted us beforehand will result in you being warned and/or potentially barred from mooting. Of course, if you contact us afterwards but had exceptional circumstances meaning you could not contact us beforehand this will neither go down as a warning nor will you be barred.

Being Late

You are considered to have failed to show at a moot if you are more than 5 minutes late without exceptional circumstances.

Missing Bundle Swap Deadlines

Each moot has a deadline by which bundles must be swapped between parties. Barring exceptional circumstances, missing this deadline will result in a warning if you are less than 24 hours late, if you are more than 24 hours late you will be considered as having failed to show at the moot, be withdrawn, warned and/or potentially barred from mooting.

A Note on Being ‘Barred from Mooting’

Please note that whilst this policy appears strict and unforgiving the committee are acutely aware of the pressures of law school, especially at LSE, and, whilst we reserve the right to bar people from mooting, we use the phrase ‘potentially barred from future moots’ deliberately, and would take great caution before actually taking this step. The main point is please **just let us know**, and, if we can support you in any way please do reach out.

Decisions on barring people from mooting will only be made by the President of Bar and Chambers, the Master of the Moots, and the Mistress of Moots.

Even a person who has failed to show five times but always given us warning of at least 48 hours, or always given us exceptional circumstances, would not be barred from mooting or even receive a warning. Once again, we want to work with all students who want to moot.

Policy on Court Dress

Judges in internal LSE moots are told not to award or deduct ‘court etiquette’ points on the basis of clothing/dress, although we strongly encourage you to follow it anyway to create a realistic court environment. External moots may be more strict with dress codes, but this will be stated in the respective moot’s rulebook.

You are encouraged to wear dark navy, charcoal, or black suits/skirts/blazers, alongside white shirts/blouses. Dark shoes are encouraged, dress shoes, heels, and flats are all acceptable. Open toed shoes are generally frowned upon.

For some moots we may provide wigs/gowns. This will be discussed in more detail if you compete in one of these moots.

Spectating Policy

For internal LSE moots it is at the discretion of the judge whether or not spectators can come into the room where the moot is being held, unless stated otherwise in the rulebook for the respective moot. We recommend emailing the judge in advance if you wish to have fellow LSE students watch you moot.

External moots will have their own policies, which will be found in their rulebook.

Policy on Cheating

This policy applies only to internal LSE moots, external moots will have their own rules on what constitutes cheating, please consult these carefully.

Receiving Outside Help

You are welcome to get help from peers, textbooks, the law librarian, or any other source you choose. We do however disallow getting help from members of the law faculty, at LSE, or any other institution, and ask that you make sure your reception of outside help does not cross into plagiarism.

On the whole, we encourage you to discuss the moot with your peers and research as much as possible.

Plagiarism

Submitting work that is not your own, including taking skeleton arguments or oral arguments from other students from previous years, or original work produced by other students for you, is plagiarism and counts as cheating.

Some of our moot problems are discussed on 'The Student Rooms', looking at these discussions is not plagiarism but submitting arguments identically would be.

We appreciate that, fundamentally, all moot responses will be somewhat similar, but there is a difference between using the same case law and presenting and structuring your case in an identical way.

Acting Maliciously to Disadvantage Your Opponent

Doing something to disadvantage your opponent, and intending to disadvantage them, counts as cheating. This, as a rule, doesn't happen, but it is important to make it explicit that this amounts to cheating.

Consequences of Cheating

Both you and your teammate will be disqualified from the moot. You will be barred from mooting.

Cheating is adjudicated through the Standard Policy on Dispute Resolution. Complaints of cheating will be initiated by your opponent(s), a member of the Bar and Chambers committee, or a judge.

Standard Policy on Dispute Resolution

The following procedure is the standard dispute resolution procedure if you wish to contest the winner of the moot. It applies to all internal LSE moots unless stated otherwise in that moot's rulebook. It does not apply to external moots as they will have their own policies listed in their rulebooks.

You will never be penalised in any form for submitting a complaint.

You can dispute the winner of a moot where:

1. The administration of the moot put you at a substantial disadvantage compared with your opponent.
2. Your opponent cheated (as per the policy on cheating).
3. The judge was manifestly unreasonable.

In your complaint you should clearly state for which of the above reasons you are appealing, include a full explanation of what happened and how it supports your reason for appeal, and provide your full name and LSE email address. Your complaint should have the support of your teammate, and, if it doesn't you should explain why. Please email all complaints to f.robinson@lse.ac.uk

A judge or member of the Bar and Chambers committee can also submit a complaint on the second ground, that your opponent cheated, but you and your teammate will be contacted before proceeding with this complaint. It is unlikely we will proceed with the complaint if you and your teammate do not support it, though egregious cheating for which we already have evidence may proceed without your and your teammate's consent. A judge's or committee member's complaint will be treated in the same way as a complaint made by you directly would be.

The dispute will be adjudicated on by the President of Bar and Chambers, the Master of the Moots, and the Mistress of Moots. The President, Master, or Mistress will withdraw from adjudicating the dispute if:

1. The complaint relates to the administration of the moot and they were the named committee member responsible for the moot.
2. The complaint relates to cheating by your opponent and they were your opponent.
3. The complaint relates to the judge acting unreasonably and they were the judge.

They will assess to see if your complaint has merit. This includes reading your submissions, talking to the member of the committee in charge of the event, talking to your opponent, talking to your teammate, and talking to the judge. In cases of 'very minor' cheating your case will be found not to have merit, what is considered 'very minor' is at the discretion of those assessing your complaint. A detailed response will be issued outlining why they found your case to have merit, or not. You will receive this response within 5 working days, unless you are contacted to say otherwise.

If your case is found to have merit:

1. In cases relating to poor administration, the moot will be declared a draw and Bar and Chambers will issue an apology. Where there is a prize of money this will be divided equally between both teams. If there is a prize of a mini-pupillage or equivalent, one of the following measures will be taken:
 - a. An additional moot may be held to find a winner;
 - b. Both teams will receive the mini-pupillage or equivalent;
 - c. Neither team will receive the mini-pupillage or equivalent.
2. Where your opponent has been found to have cheated, your opponent's whole team will be disqualified and your team will win the moot, and any prizes, by default.
3. In cases relating to the judge acting manifestly unreasonable, a different judge will be asked to look over the skeleton arguments and pick a winner on those alone. Simply because a judge acted manifestly unreasonable does not mean you will necessarily win the moot or be entitled to any remedy if the outcome would not have been different.

Policy on Selection of Judges for Internal Moots

Where possible judges for moots will be faculty, solicitors, barristers, or judges. Preferably with specialism in the area of law of the moot. However, for PNCs, and early rounds of internal competitive moots this is not practicable, here we use student judges.

First preference for student judges is the Permanent Judging Roster. This is made up of students who have signed up to be judges. Students on this roster must:

- Be 2nd year or above
- Have participated in at least 2 moots
- Be willing to commit to judging at least 1 moot during the next academic year

If we cannot get enough judges from the roster we will resort to contacting people on an individual basis who we (the mooting team) think are appropriate to judge. Students will never be below 2nd year, except in exceptional circumstances.

Guide for Judges

- All policies referenced in this can be found in the Bar and Chamber's handbook.
- Judges should not reveal scores to mooters and instead hand in their score sheets discreetly to the committee member responsible for the moot.
- Judges are expected to know the LSE Moot Scoring Policy well, you will be provided with a copy of the policy at each moot but any questions should be flagged to the President of Bar and Chambers prior to the moot.
- Judges are expected to be somewhat harsh in their marking but never mean. Give mooters the score they deserve whilst bearing in mind that full marks should be very rarely, if ever, awarded.
- Judges are expected to give oral feedback, this feedback should be constructive, and judges should be mindful it is given in public and therefore should be careful of not humiliating the mooters. Fundamentally, we want students to keep mooting, feedback should encourage students to continue and get better.
- Oral feedback should not indicate a winner.
- Under the LSE Moot Scoring Policy there is a possibility of award for 'Court Etiquette', points for appropriate dress should neither be added or deducted in this, or any other category (Policy on Court Dress).
- It is at your discretion whether or not to allow spectators (Spectating Policy).
- You should make a complaint if you suspect cheating (see Policy on Cheating). As per the Standard Policy on Dispute Resolution you should submit a full explanation of what happened and how it supports the accusation of cheating, and provide your full name and LSE email address. It should be submitted in writing to f.robinson@lse.ac.uk
- You should inform the committee member responsible if someone fails to show at a moot or is five minutes or more late, as per the Policy on Withdrawing From Moots/ Being Late/ Missing Bundle Swap Deadlines.
- Your email address will be shared with the mooters you will be judging to allow them to send you their bundles and skeleton arguments. The deadline will always be at least 24 hours before the moot. You should read and mark these prior to the moot. Please see the LSE Moot Scoring Policy to see the scoring policy for skeleton arguments.
- Please inform the committee member responsible if someone is late submitting their bundle, and if so, how late they were.

Committee Structure

Bar and Chambers Committee

Executive Committee

- President (lead)
- Master of the Moots
- Mistress of the Moots
- Careers Coordinator

The executive committee are the elected members of Bar and Chambers. They can only be removed by the SU process or through resignation. They are the leads for the B&C teams. They sit on the LSESU Law Society Committee. Their terms begin with committee handover.

Sub-Committee

- External Mooting Officer (EMO)
- Communications Officer (Comms)
- Careers Officer
- Junior Mooting Officer (JMO) x3

The sub committee are the appointed members of Bar and Chambers. They can be removed by a unanimous vote of the Executive Committee or through resignation.

All jobs cease at handover to the new committee in Summer Term.

Moot Team

- Master of the Moots (lead)
- Mistress of the Moots (lead)
- President
- EMO
- Comms Officer
- JMOs

The Moot Team is responsible for organising and running moots.

Careers Team

- Careers Coordinator (lead)
- President
- Careers Officer
- Comms Officer
- JMOs

The Careers Team is responsible for promoting careers at the Bar and organising events to that end.

Social events are organised by the whole committee.

Role Descriptions

- **President-** Leads the Bar and Chambers committee, assists with Moot Team and Careers Team.
- **Master of the Moots-** Leads the Moot Team, sits on the executive committee.
- **Mistress of the Moots-** Leads the Moot Team, sits on the executive committee.
- **Careers Coordinator-** Leads the Careers Team, sits on the executive committee.
- **EMO-** A senior member of the Bar and Chambers committee, part of the Moot Team responsible for organising external/varsity moots. Selected in August by the Executive Committee.
- **Comms-** Responsible for conducting outreach and marketing. Works with the president, moot team, and careers team as outreach/marketing is needed. Selected in August by the Executive Committee.
- **Careers Officer-** Part of the Careers Team. Responsible for working with Careers Coordinator to produce careers events. Selected in August by the Executive Committee.
- **JMO-** Normally first year students. Work with the Moot Team and Careers Team in assisting as is necessary. Selected by the Committee in September.

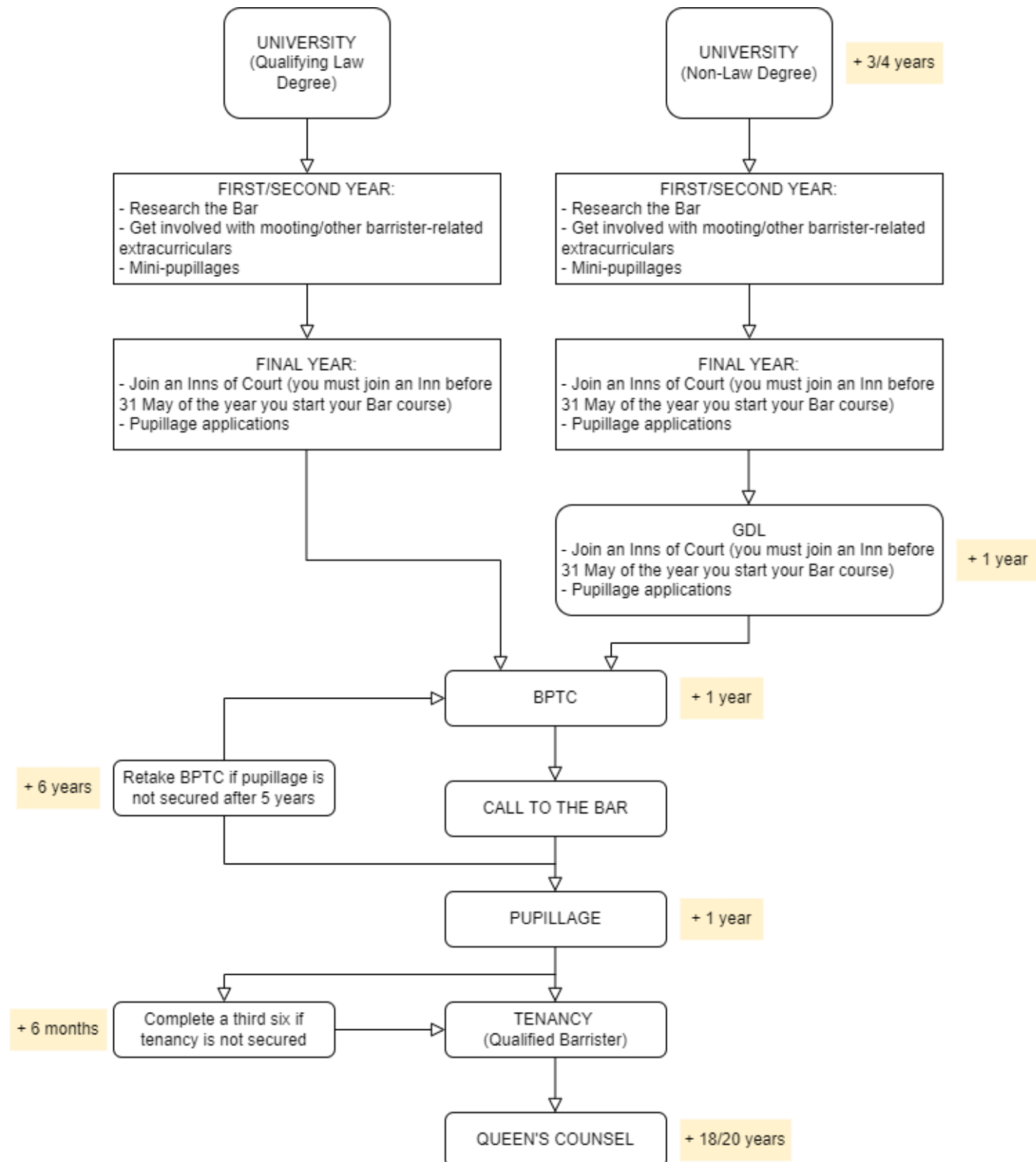
Selection Process

Each role uses a different selection process. We do our best to keep these processes fair and unbiased. If you are interested in how any person/role was selected feel free to get in touch and we will be happy to explain our processes.

Guidance On Your Career At The Bar

Barrister Route Timeline

Below is a brief timeline setting out what your journey to the Bar may look like. As this is just a rough guide, please do not be discouraged if your journey to the Bar ends up looking different to this, or if you are worried that you are already “behind”. Feel free to get into contact with the committee if you have any concerns.



Key Words

- **QLD/Qualifying Law Degree** - An approved programme in which you will study the seven foundation subjects of legal knowledge, as stipulated by the Solicitors Regulation Authority and the Bar Standards Board. If you have any queries as to whether you have a QLD, feel free to get into contact with the committee or contact your Academic Mentor.
- **Mooting** - A popular extra-curricular activity for aspiring barristers. Mooting includes receiving a 'moot' problem and having to act as the advocate for that side. To keep up to date with the moots you can take part in, follow the LSE Bar & Chambers Division socials.
- **Mini-pupillages** - The bar's equivalent of an internship or vacation scheme and lasts one to five days.
- **Pupillage** - The final, vocational stage of training for those wishing to become practising barristers. Essentially, this is the bar's equivalent of a training contract.
- **Inns of Court** - In the UK, all barristers have to be part of one of the four Inns of Court. The four Inns of Court are: Gray's Inn, Middle Temple, Lincoln's Inn and Inner Temple. The Inns of Court are also useful for providing scholarships for the BPTC.
- **GDL/Graduate Diploma in Law** - This is a year-long full-time mandatory course for all graduates who didn't study a qualifying LLB degree.
- **BPTC/Bar Professional Training Course** - A postgraduate course which allows law graduates to be named and practise as barristers in England and Wales.
- **Call to the Bar** - Admission to practice in the courts.
- **Sixes** - Pupillages are normally split up into two sixes, each of which are 6 months long. During the first six you will shadow the cases of an experienced barrister; in the second six you may take on work of your own. If you do not receive tenancy at the end of your pupillage, you can apply for a third six (another 6 months) at a different chamber which acts as further work experience and allows you to apply for tenancy at that chamber.
- **Tenancy** - When you are given tenancy, you are given a place in that chamber and can work as a qualified barrister.
- **QC/Queen's Counsel** - A senior barrister who usually receives the most well-known cases. The act of becoming a QC is known as taking silk because QC's are given silk robes to wear. This is why QC's are also referred to as silks.

Guide to Mooting

This guide to mooting is from our 2019/20 committee, it has some undeniably good advice, however, take the structured approach it provides with a pinch of salt, we would advise developing your own style and methods, the best way to do that is to get stuck in! **Nothing in the guide to mooting is a rule**, any applicable rules will be sent to you when you are selected for a moot.

1. Introduction

1.1 What is a Moot?

A moot is a legal competition based on a moot problem. It is a mock court hearing where mooters represent the “Appellant” and the “Respondent” in an appeals process. A moot is normally set in the Supreme Court or Court of Appeal. “Mooters” present arguments representing each side of the fictional legal argument and mooting is primarily concerned with the skills of advocacy, rather than following formal court procedures. Therefore witnesses and juries are not used. Questions of law, not questions of evidence, are important.

Mooting helps to build confidence in public speaking, legal research, and presentation/organisation skills, which are valuable transferrable skills for any future career. Many future employers greatly value these skills and so we recommend that everybody gets involved with at least one moot this year.

1.2 Participants in a moot

Participants are divided into two teams of two. One team represents the Appellant and consists of two speakers: the Senior Appellant and Junior Appellant. The other team represents the Respondent and also consists of two speakers: the Senior Respondent and Junior Respondent. The main difference between the two positions is the time for which they speak. The order and length of submissions will vary between competitions, but this is a fairly common format:

First speaker: Senior Appellant (12 minute speech)

Second speaker: Senior Respondent (12 minute speech)

Third Speaker: Junior Appellant (10 minute speech)

Fourth Speaker: Junior Respondent (10 minute speech)

NOTE: all competitions offered at LSE (and external moots) have their own rulebook. It is your responsibility to **check the rules of the competition for which you are registered** as to your allotted submission time.

Despite the difference in name, there is no advantage in being Senior over Junior: simply the fact that the senior will go first and therefore may need a little bit more time than the junior in order to introduce the moot problem and lay out what both the Senior and Junior's arguments will be.

Following the Junior Respondent’s submissions, counsel for the Appellant may be permitted a **right of reply**. A right of reply is an optional extra 2 minutes of speaking time (again, check the rules for the time) for the Appellants, allowing them to respond to the Respondent’s submissions. It is not the same as a rebuttal in public speaking. Instead, it is a final opportunity to clarify any discrepancies the other side have attempted to create in your argument and address any concerns the judge raised that perhaps you didn’t address carefully enough in your submissions.

There is normally only one judge in practice non-competitive (PNC) moots and the early rounds of competitive moots. As you progress through the stages of the competition this could increase to three judges. Moot judges will be senior law students, academics and in the case of final rounds, practicing solicitors, barristers and judges.

You will usually be told which party wins on the “law”– the party with the most compelling legal argument– and the party who wins on the “moot” or is perceived to be “the better advocate” – this team or individual mooter(s) will then proceed to the next round.

Note that it is possible to win the moot without winning on the law, highlighting how mooting is not just about legal knowledge and content, but also about preparation, delivery, and style.

1.3 Moot problem

An example of a moot problem can be found below.

The moot problem is a fictional set of facts upon which your legal arguments will be based. **Moot problems are not about the facts of the problem themselves, but about the points of law to which the facts arise.**

The moot problem will be sent to all mooters typically a week before the moot and will include:

- The identity of the moot court
- A fictional set of facts (which have been decided at a fictional first instance trial)
- The findings of the lower court (and, if the moot is being held in the Supreme Court, the Court of Appeal's decision)
- Two grounds of appeal, the first to be taken by the Senior, the second by the Junior.

"I have received the problem: now what?"

1. **Identify** which **role** (Appellant/Respondent) you represent, which **ground** (senior takes the first; junior takes the second) you will be preparing, and in which **court** the dispute is held.
2. **Read, read and read again**, making sure you understand every sentence. The lower court's dictum will often provide you with important clues as to the key arguments on appeal.
3. Highlight the key legal concerns that you will research and from which you will create your skeleton argument. This step is less about focusing on the *facts* and more about focusing on the *legal arguments*.
4. **Discuss** the moot problem with your partner soon after you receive it. This allows you to sensibly divide the legal research.
5. Proceed to **legal research** (*see below*) before crafting your argument.

No matter how well a moot problem is written, it will invariably favour one side. **Remember that only one side can win on the law, but that the problem is designed around an unsettled (ambiguous or rapidly developing) area of law.** Crucial here is the fact that **there is no "right answer."** There are only **stronger and weaker arguments to be made.**

Recall too that you do not need to win on the law to win the moot. In other words, the weakness of your legal case will not prevent you from winning the moot. Some mooters even prefer to have the weaker legal argument as they can craft more creative arguments and showcase steadfast advocacy skills in difficult situations.

Identity of court

IN THE SUPREME COURT OF THE UNITED KINGDOM
ON APPEAL FROM THE COURT OF APPEAL (CRIMINAL DIVISION)

BETWEEN:

Names of the parties, and which side they are on



R.

Respondent

-and-

Sir Cameron Jones

Appellant

Sir Cameron Jones, an eminent antiquarian, had a special interest in the relics of English saints. He travelled to Bugthorpe Manor in Berkshire, to make the acquaintance of its owner, Lady Bugthorpe, an impoverished elderly widow. Lady Bugthorpe had an outstanding collection of religious relics, including what purported to be the finger bone of St. George, the patron saint of England.

Lady Bugthorpe was overwhelmed at the honour of being visited by such an eminent figure. Not lacking in considerable personal charm, Sir Cameron persuaded Lady Bugthorpe to give her the relic. In what she later described to the police as a 'moment of madness', she handed the relic over to him 'as a present'. Sir Cameron thanked her and left with the relic as quickly as politeness allowed.

The day after Sir Cameron's visit, on suddenly coming to her sense, Lady Bugthorpe telephoned the police. They quickly arrested Sir Cameron and charged him with dishonestly appropriating property, namely the finger bone, belonging to another, namely Lady Bugthorpe.

At his trial, counsel for the defendant argued that the acceptance of a gift could not be appropriation within the meaning of the Theft Act 1968, and that, even if it could, a human finger bone was incapable of 'belonging to another' within the meaning of the Act. No question arose as to the defendant's dishonesty.

Facts

The trial judge, her Honour, Judge Phalange QC, directed the jury inter alia that, on order for them to convict the defendant of theft:

First instance decision

- a) it was immaterial that the victim, Lady Bugthorpe, gave the relic to the defendant, since the victim who receives a gift may appropriate the property which is the subject matter of the gift.
- b) The expression 'property belonging to another' as used in the 1968 Act, could apply to a relic of this kind, since the common law rule that there was no property in the body applied only to a corpse awaiting burial.

The defendant appealed to the Court of Appeal on the ground that the trial judge had erred in directing the jury in this way. The Court of Appeal, however, affirmed the trial judge's direction in its entirety.

Court of Appeal decision

The defendant now appeals to the Supreme Court on the grounds that:

- 1) **A person who receives a valid gift from another cannot be held, within the meaning of s3 of the Theft Act 1968, to be a person who 'appropriates' the property which is the subject matter of the gift.**
- 2) **A relic consisting of human bone cannot be 'property belonging to another', as that expression is used in the Theft Act 1968, since the common law rule that there was no property in a body applied, not only to a corpse awaiting burial, but to human body parts generally.**

Grounds of appeal (senior will take 1st ground, junior will take 2nd)

2. Legal Research

2.1 Structured argument

As a basic starting point you should aim to structure your arguments in the following way:

1. **Legal** submission- concise summary of your submission (**Point**)
 - A. **Authority**- the legal 'rule'- relevant legal principles/tests from appropriate authorities (**Evidence**)
 - B. **Application** of legal rule to the present moot facts (**Explanation**)

2.2 Research process

Once you have familiarised yourself with the moot problem, you can begin your research. It is important that you undergo the following steps:

START by reading the relevant chapter of a textbook (although preferably the practitioners' text, e.g. *Chitty on Contracts* on Westlaw and Lexis). This will provide you with a good knowledge base of the area of law in question and will set out the overarching principles to bear in mind.

- Make sure the text you choose is **up to date**. For example, at this stage in your research, try not to use Herring's *Criminal Law* from 2010 (especially if you are researching joint enterprise!).
- Remember that moot problems will generally concern a contentious or **unsettled point of law**, otherwise they wouldn't be any fun to argue! So don't expect the textbook to have all the answers - it should be more of a starting point to give you an overview of the law.
- There is a section on Westlaw where you can specifically locate the most recent decisions on this point of law and you can filter these from highest authority (e.g. Supreme Court). **Judges will absolutely expect you to have the most recent decisions** present in your arguments and so if you are reading a case from 1900, maybe have another look because there will without doubt have been some additional cases.
- Additionally, **even if a leading authority does not help your legal argument, it is important to address it**. Too many people try to shy away from this because they believe it will weaken their case. Judges advice has always been to tackle these things head on and lay out the most recent decision, and if it works against your argument, state the **MANY** ways in which it can be distinguished from your case.

THEN, look for primary resources. The textbook will point you to the leading authorities on the matter, including key judgments, useful academic articles, and any relevant statute law, which should be the next step in your research process, to formulate your argument.

- **Note** that there may also be some authorities listed in the moot problem itself. You will want to pay particular attention to these.

When dealing with **case law**:

- **Read the judgement in full.**

- One technique is to read for the facts then read for the judges' reasoning. You can skim the facts, as unless they are very similar to your own, you are unlikely to find much in the way of help in the facts.
 - Reading for the facts means looking at the case summary and at how the judges summarise the events of the case. This will help you separate the useful facts (from which you can draw parallels or differences) from the irrelevant ones.
 - Reading for the judges' reasoning is a skill you will develop as you read more case law. Consider **both** the majority and minority decisions. **How** did the judge come to her conclusion?
- Check that the case **is still good law** and hasn't been overturned by a higher court. This is easy to see on Westlaw as there will be a green C box at the top of the case if it is still good law, there will then be a yellow box for partial judicial treatment and then a red box for negative judicial treatment, which essentially means it has been overruled.
 - Look at how many cases have followed the decision and in what circumstances
 - Westlaw has a section in the case summary called 'key cases citing' – this is a list of all subsequent cases which have cited the decision in their judgements. A very useful tool for finding more authorities.)
 - Take a note of **which court the case was decided in**. For example, a Supreme Court decision will take precedence over a Court of Appeal decision.
 - It is not recommended that mooters cite lower courts decisions, for instance Crown court or county court. There may be exceptions, but on the whole, since that decision won't be binding on the court you're in, it is unwise to cite it.
 - Also take a note of **when the case was decided**. The court will usually be reluctant to deviate from old, well established precedent but may be willing to overturn a newer rule (if they have the authority).

When reading **articles**:

- Remember that while the views of academics may carry certain weight, they are not legally binding. They may be helpful however if you are dealing with a complex change in the law and you feel it would provide clarity to the court by referencing the academic piece of work.
- However, they may provide you with ideas for your argument.

Don't worry too much if you're finding it difficult to find authorities to support your side! **Mooting is all about demonstrating good advocacy and powers of persuasion**, so you can still win a moot even if you lose on the law. There will not be a magical authority that fits your case perfectly every time. Sometimes the best thing to do is to distinguish your case from the current authorities and use persuasive authority from other jurisdictions etc.

3. Skeleton Arguments

3.1 What is a skeleton argument?

A skeleton argument is a written outline of your argument (submission). It should introduce the judge to both your and your partner's arguments briefly. It should also refer to each of the authorities on which your team relies.

You will normally be **limited to one page for your own skeleton**. Check your competition rules for any special skeleton argument requirements.

In external mooted competitions, the page limit imposed on skeleton arguments may exceed one page. This provides the opportunity to expand your skeleton argument. That said, it should nevertheless remain concise and simply provide a more detailed summary of your submissions.

You should develop your arguments in relation to the issues which underpin your overarching submissions. Taking a step-by-step approach, you should explain specifically how the authorities you have cited relate to the facts and state in more detail how they support your argument.

It should be noted that skeleton arguments, even when in an expanded form, should never be regarded as a substitute for your oral submissions. It is important to build upon the submissions made in your skeleton argument. However, it is good practice to refer to your skeleton argument when making your oral submissions as a means of sign-posting to the judge where you are in your submissions.

3.2 Guidance

You will need to have one main submission and one alternative submission identify the argument in the alternative. Lawyers would never submit just one choice for a judge. Counsel will always submit their first argument followed by 'if your *Lordship* does not find my first ground compelling, I submit in the alternative...'.

Your submissions must be concise and precise. Avoid mistakes, ambiguities and colloquialisms at all costs. Also consider which cases are most authoritative, to avoid citing too many cases and overwhelming the judge during your oral submissions.

3.3 Citations

When presenting a legal principle and using a case to back it up, the full citation of the case must initially be given to the court. This includes the issue number and volume of the legal report where the case is recorded. For example, using a fictional case of *Smith v Smith [2014] UKSC15; 2014 2 AC 16*), one would say: "In the case of Smith **and** Smith, which was a 2014 case reported in Volume 2 of the Appeal Cases, at page 16. Your Lordship can find the relevant case at Tab 2A (e.g.) of your Lordship's bundle."

After giving the full citation of a case for the first time, it is normal procedure for the Senior Appellant to ask if full case citations may be dispensed with. Judges will normally agree to this, whereupon you need not, nor subsequent speakers, must give the full citation every time you mention that case or any further cases, but you would just have to mention the case name.

There are many different citations e.g. WLR, inc. specialist courts. If you ever get confused and need help on figuring out what they stand for, this website will greatly help you:

<http://www.legalabbrevs.cardiff.ac.uk/>

4. Bundle of Authorities

4.1 What is a bundle?

A bundle is a folder containing all the authorities upon which your team will rely. You must refer the judge to this during the course of your oral submissions to support your argument. The better your bundle is, the easier this should be. Judges are known to mark down teams for poorly made bundles. Check the rules of your competition to see whether you should compile an independent bundle (with just your authorities) or a combined bundle (including your partner's authorities). Also check the competition rulebook for guidance as to the sets of bundles you need to prepare – this depends on whether the competition requires you to provide bundles for more than one judge and/or your learned friends opposite.

4.2 Your bundle structure

The first page of your bundle should be a contents page, followed by a copy of your team's skeleton arguments, the moot problem, and then the relevant authorities in order of citing and quoting. These should all be in different sections (i.e. dividers) and do not use plastic wallets as these infuriate Judges. If both senior and junior will be referring to the same case, put the case in the order the senior will refer to it and the junior will just need to use it in this place – there is no need to include two copies, just use different colour tabs.

4.3 Guidelines

On the **cover**: label your bundle clearly with the **party** you are representing and your **name**.

Inside:

1. Include a contents page – a List of Authorities.
2. Arrange the contents in a logical order – usually the order that you will refer to the cases.
 - a. If both senior and junior will be referring to the same case, put the case in the order the senior will refer to it and the junior will just need to use it in this place – there is no need to include two copies.
 - b. Use dividers to separate the authorities by numbers
3. **Use PDFs of the actual case reports – not the Westlaw copies.**
4. You are allowed to **print double sided**, unless otherwise stated in the competition rulebook. (*For 2018/19 internal moots and practice non-competitive moots, we will generally allow for double sided printing, so as to reduce paper wastage; please read the respective competition rulebooks for more guidance*).
5. Highlight the relevant passage in a neat, clear manner (i.e. do not use a highlighter that is running out of ink. The preferred colour is yellow).
6. Place a labelled sticky tab next to each highlighted passage for your and the judges' convenience and keep the tabbing system consistent, i.e. if you start with numbers, don't change to letters.

Organising your bundle in this way will help the judge find the passage to which you are referring quickly and maximise the time you have for submissions.

Direct the judge to a particular tab with something like: “May I draw your Lordship’s attention to the highlighted passage at Section 1, tab A in the Appellants’ bundle”. ***Wait and watch the Judge to make sure he is turning to the right page and wait until he has got there before you start reading to him. If you skip ahead, be warned he will probably ask you to wait. Then go on to*** read out the passage, always keeping intermittent eye-contact in between reading and then go on to discussing its significance.

4.4 Dos and Don’ts

- **DO copy the correct version of the case report.**
Cases will be reported by more than one law reporting agency so you need to ensure the copy you include in your bundle is the one you have cited in your skeleton. Additionally, make sure you do not print the Westlaw Word document (or equivalent off another website), but the PDF of the original case report.
- **DON’T print the whole case** – *please read the respective competition rulebooks for more guidance.*
While the previous policy was to print the whole case, reflecting real practice, this wasted significant paper and caused severe printing costs. Instead, the new policy this year will be to print the first page and the pages of the passage(s) to which you will be referring. Furthermore, participants are required to send the PDF of the entire case reports they will be using to the competition administrator (the Master or Mistress of the Moots) and the opposition least 24 hours in advance of the moot, during the Document Exchange (see Section 5). Failure to do this may see penalties awarded.
- **This is because there is no need for the Judge to stay within the passage you have directed him to, he may well turn the page over and reference an opposing point, that is why it is key to read the whole case throughout and prepare for responses to challenges.**
- **DON’T leave it too late.**
A bundle can take anywhere between half an hour and a couple hours to assemble properly (including printing the cases, highlighting the passages, placing labelled sticky tabs, labelling the bundle, etc). You want to be able to spend your final hours before the moot going over your argument and practising with your partner – not stressing about printing!

5. Document Exchange

In every moot competition, deadlines will be set for Document Exchange – whereby you exchange Skeleton Arguments and Lists of Authorities with your opponents. This is to notify each other in advance of the moot, the key arguments and authorities you will be employing on the day itself.

Out of courtesy and to avoid any penalties, take note of the deadlines (which can be found in the respective competition rulebooks) and ensure you email the requisite documents out to your opponents on time.

Do read your opponent’s skeleton so you can better prepare your oral submissions to directly address any contentious areas.

6. Moot Court Etiquette

A moot is a mock court, and the rules of etiquette help to foster the requisite order, professionalism and solemnity of real court.

6.1 Dress

Men

- Suits, preferably dark navy, charcoal or black

Women

- Primarily a business skirt/ and blouse or trouser suit (preferably in black, navy or grey)
- Primarily dark heels, but dark flats are appropriate too. Open toed shoes, however, are not.

6.2 Forms of address

The required forms of address sound awkward when you first begin, but you must master them.

Judge:

Tribunal	“Direct” form of address	In place of “you”	In place of “your”
Single male judge	“My Lord”	“Your Lordship”	“Your Lordship’s”
Single female judge	“My Lady”	“Your Ladyship”	“Your Ladyship’s”

Your opponents:

- “My learned friend opposite”
- “My learned friend Mr/Ms [X]” (never use first names)
- “Leading/junior counsel for the Appellant/Respondent”

Your partner:

- “My learned friend”
- “My learned junior/senior”

6.3 Vocabulary

You shouldn’t present your arguments as your own ideas/opinion. The best way to achieve this is by saying “in my submission”, “it is my submission that” or “it is submitted”.

Expressing thanks. During the course of the moot your partner or the opposition may attempt to assist you, for which you must express thanks. The judges might for example say he is familiar with the facts of a case to which you are referring to and therefore spare you the need to summarise the facts for the moot court.

- “I am grateful to Your Lordship/Your Ladyship/my learned friend”
- “I am grateful”
- “I am obliged to Your Lordship/Your Ladyship/my learned friend”
- “I am obliged”

Disagreeing. There will be times you must disagree with someone else and you must do so “with respect” or “respectfully”, but only use this phrase where appropriate. If overused, or said in the wrong tone, this might actually give the impression you have no respect for the judge or your opponent.

6.4 Good manners

These points are really just common courtesies, but with so much to think about before a moot, they can easily slip even the most conscientious person.

Note:

- **Do not interrupt the judge.** If the judge interrupts you in the course of your oral submissions, do not interrupt him, even if you can see where he is going with his point.
- Stay silent during your opponent's submissions – do not shuffle paper to distract, cough or tut. You will almost certainly disagree with their points, but the judge will not appreciate constant flow of noises. Make sure your phone is turned off.
- Pay attention to your partner's and your opponents' submissions. Look attentive and avoid staring.
- Listen attentively to any feedback.

7. Oral Submissions

7.1 Basics of speaking in court

Mooting is a form of public speaking. No one is a 'natural' public speaker: anyone can become good at public speaking with practice.

There **five fundamental attributes** to good mooting are: stance, eye contact, vocal volume, pace of delivery and tone of delivery.

Stance

- Do not slouch over your papers
- Stand straight or lean very slightly forward from the waist to best project your voice
- Stand still. Do not shift your weight from foot to foot
- Hold your head up, even if you are looking down
- Push your shoulders back so you do not appear hunched
- Do not gesticulate too much. Try to keep your hands down, either at your sides or behind your back, sometimes you are given a lectern and this can help control your hands.
- If you must hold notes, keep them in line with your waist, but in general it is better to keep notes on the lectern/ table in front of you and then just glance down every now and then
- Keep your hands out of your pockets

Eye Contact

Look the judge(s) in the eyes as often and as long as you can. The aim is to try and **engage them** in a conversation. From previous experience, mooters would say that there is 80% eye contact with the Judge, 20% glancing at your notes/ moot problem/ authorities.

Maintaining eye contact with the judge will also help you **read his/her reactions** to what you are saying, after all it is designed to be a conversation between you and the judge. You will be able to tell whether they are following a submission, and if not, you can rephrase or repeat without being prompted, which the judge will appreciate. This will also allow you to see when the judge is writing something down and you can earn favour by giving him time to finish before launching into your next point.

Vocal volume

Judges need to be able to hear you. Speak up but avoid booming. You can probably judge how loudly you need to speak by the size of the room, but just make a conscious effort to speak louder than you would in an ordinary conversation and project your voice from your lungs, not your throat.

Pace of delivery

Speaking too quickly makes you sound nervous and if submissions are covered too quickly, the judge and other mooters, let alone any audience, will not be able to follow. The judge must be able to follow and understand your line of reasoning and therefore the golden rule is to speak slower than you normally would in a conversation. Indeed, it must be distinguished from public speaking in the sense that you want to help the Judge, rather than bombard him with points. Often the best mooters take a calm and slower approach that means the Judge can easily follow the mooters' reasoning and it will make you appear more in control of what you are saying.

Tone of delivery

The judge will start to lose interest in your submissions, if you deliver them in a flat monotone. Vary the pitch of your voice in the way you normally would in conversation. This will be most natural when you are at your calmest. However, do not harass the Judge by overdoing it and being too forceful, they will not like it!

7.2 Structure of oral submissions

You must arrange your oral submissions logically if you want to maximise impact. Here is an indicative structure:

- Introduce the subject of the argument
- Background of the factual history
- Division, in which the mooter outlines their argument
- Support your argument by use of authorities
- Address any areas for concern and the opposing points of view
- Conclude your argument by summing up.

As Appellant counsel, you should spend the vast majority of your moot speech building your positive argument. You will not have heard Respondent counsel's submissions and should be wary of anticipating the detail of their argument. The bulk of Appellant refutation should take place in the reply at the end of the moot. Senior and Junior Respondent must address the Appellants' arguments in the course of their speech, so leave time to do this.

Some mooters find it useful to imagine having a conversation with the judge. The judge should be seen as a sceptical party with whom you hope to build a rapport with and persuade them.

7.3 Opening Remarks

First speaker

→ Introduction

The first mover must introduce the moot – this will always be Senior Appellant. You must introduce the movers from both teams; explain the background to the moot; outline the division of labour between the Appellant counsel; and ensure that the judge has received any skeleton argument or bundle of authorities.

You might begin:

‘May it please Your Lordship, I am John Smith and I appear on behalf of the Appellant in this matter, Mr Charles Dickens, together with my learned friend Mr Kowalski. The Respondent, Mr Henry Cecil, is represented by my learned friends Mr Doe and Ms Mustermann’

→ Background

After the introductions, the first speaker should briefly explain what the moot is about – the facts of the problem. Given that the judge will almost certainly have read the problem, a short statement of this nature should suffice by way of background. The convention is to ask the judge if they would like a summary (‘would your Ladyship like to be reminded of the facts of this case?’). If they answer in the affirmative, keep your account short and cover only the key facts. If not, you may proceed with your first submission.

→ Division

You should advise the judge as to how you and your junior have split the grounds of appeal. *‘May it please your Lordship, I will address the court on the first ground of appeal, and my learned junior will address the court on the second ground’*.

Subsequent speakers

If you are the first speaker for the Respondent (i.e. the Senior Respondent), introduce yourself and your partner and explain the division of legal argument. No need to repeat the formalities made by the senior Appellant.

Junior Appellant and Respondent may continue *‘My Lord, I will now address the court on the second ground of appeal’*. Again, no need to repeat the above formalities made by the senior Appellant and Respondent.

8. Judicial Interventions

8.1 What is a judicial intervention?

A judicial intervention is a question asked by the moot judge and how you respond to these interruptions is part of the skill involved in mooting. You should expect the judge to interrupt you several times during your submission and should therefore factor this time into account. For example, if you are given 15 minutes to speak, apportion at least 5 to responding to judicial interventions.

It is important that judges interrupt you to test your knowledge and familiarity of the law and to make sure movers are not simply reciting a speech. The winning team in a moot is normally the one that gives the more cogent, articulate and direct response to judicial interventions, even if their prepared submissions are less compelling. Judicial interventions therefore present you with a real opportunity to influence the judges and you should welcome them.

8.2 Preparation

If you have prepared properly for a moot you should be able to deal with almost anything the judge throws at you. There are several things you can do to help prepare you for interventions:

- **Look for the weaknesses in your case.** Judges need to ask you questions, even in the unlikely event that your case is watertight. Identify all weaknesses as this is what the judge is most likely to target. You can aide your responses by preparing answers to such criticisms.
- **Look carefully at your opponents' authorities and skeleton arguments.** These will give you a good idea of what the opposing arguments are and what the judge is likely to challenge you with. The Judge will likely say, "The Respondents here argue X... and if that is the correct interpretation, this affects your point Y..."
- Prepare with your teammate – talking through your arguments with somebody else will highlight any weaknesses and therefore prepare you for the judge to pick up on these as well.
- Attend practices submissions and preparation seminars. Practice makes perfect is a good motto to live by in mooting.

8.3 How to answer the judge

- Listen carefully to the question – otherwise you won't be able to answer it! Let the judge finish his question before you begin speaking, even if you know what he is going to say.
- Make sure you understand the question – seek clarification if you need it.
- Answer the judge's question right away. Do not tell them you will address the question later. They want the information now, so give it to them.
- If you really do not have an answer, respond with something to the effect of '*My Lady, I am not familiar with the detail of that case, but on this issue I rely on the decision in [x] and my learned friends opposite have not cited any authority which undermines it*'. Then move on (swiftly).
- At the same time, do not feel afraid to ask the judge for a few seconds to think about the question. This is better than diving into it unprepared and running the risk of not answering the question directly.
- Don't waffle. Be clear, concise and polite.

No matter how well you prepare, you might be faced with a question you simply do not know the answer to. Don't let this unnerve you for the rest of the moot – even the best QCs will at some point be faced with questions they don't know the answer to. Even if you don't know the answer, **you must provide an answer**. You can look to your partner to see if they can answer the question. A brief look should tell you whether this is the case and you should say 'My Lord, may I please speak briefly to my learned friend,' but this should only be done in the most extreme circumstances. If your partner can help, you will be displaying admirable teamwork. This approach however doesn't work well if the judge has spotted a weakness in your argument, as you will be expected to defend your position.

You could also explain politely that the point will be covered by your learned friend in their submission and ask if the judge is willing to wait or would like that submission now. They are unlikely to ask for it immediately and this will give your partner a few minutes to formulate their response.

Sedley J's Law of Documents

This is neither good advice nor particularly helpful, but an entertaining summary of how documents are often presented to the courts by a former Judge of the Court of Appeal, and we thought you may enjoy seeing it:

[1996] JR

Features

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Sedley J's Laws of Documents

The Hon Sir Stephen Sedley

FIRST LAW:

Documents may be assembled in any order, provided it is not chronological, numerical or alphabetical.

SECOND LAW:

Documents shall in no circumstances be paginated continuously.

THIRD LAW:

No two copies of any bundle shall have the same pagination.

FOURTH LAW:

Every document shall carry at least three numbers in different places.

FIFTH LAW:

Any important documents shall be omitted.

SIXTH LAW:

At least 10 per cent of the documents shall appear more than once in the bundle.

SEVENTH LAW:

As many photocopies as practicable shall be illegible, truncated or cropped.

EIGHTH LAW:

- (a) At least 80 per cent of the documents shall be irrelevant.
- (b) Counsel shall refer in court to no more than 10 per cent of the documents, but these may include as many irrelevant ones as counsel or solicitor deems appropriate.

NINTH LAW:

Only one side of any double-sided document shall be reproduced.

TENTH LAW:

Transcriptions of manuscript documents shall bear as little relation as reasonably practicable to the original.

ELEVENTH LAW:

Documents shall be held together, in the absolute discretion of the solicitor assembling them, by:

- (a) a steel pin sharp enough to injure the reader,
- (b) a staple too short to penetrate the full thickness of the bundle,
- (c) tape binding so stitched that the bundle cannot be fully opened, or,
- (d) a ring or arch-binder so damaged that the two arcs do not meet.

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